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Chief Clerk of the House

FILED FEB 24 2003

H.B. No. 1266

By: 

A BILL TO BE ENTITLED

AN ACT

relating to the training required for a health care professional to  
safely perform spinal manipulation; providing a criminal penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Subchapter G, Chapter 201, Occupations Code, is  
amended by adding Section 201.3035 to read as follows:

Sec. 201.3035. REQUIREMENTS TO PERFORM SPINAL MANIPULATION  
OR ADJUSTMENT. (a) In this section:

(1) "License as a health care provider" has the  
meaning assigned by Section 201.606.

(2) "Spinal manipulation or adjustment" means the use  
by a person of direct thrust or leverage to move a joint of a  
patient's spine beyond its normal range of motion, but without  
exceeding the limits of anatomical integrity.

(b) A person may not perform spinal manipulation or  
adjustment unless the person has the legal authority to  
differentially diagnose and has received:

(1) at least 400 hours of classroom instruction in  
spinal manipulation or adjustment; and

(2) at least 800 hours of supervised clinical training  
at an institution or facility in which spinal manipulation or  
adjustment is the primary method of patient treatment.

(c) The requirements of Subsection (b) are in addition to  
the other requirements for a license under this subchapter. A

1 person who violates this section engages in the unlawful practice  
2 of chiropractic and is subject to disciplinary action under  
3 Subchapter K.

4 (d) A person who holds a license as a health care provider,  
5 other than a license under this chapter, may not perform spinal  
6 manipulation or adjustment unless the person meets the requirements  
7 of Subsection (b) and the performance of spinal manipulation or  
8 adjustment is within the scope of practice under the person's  
9 license. A person subject to this subsection who violates this  
10 section engages in the unlawful practice of the profession for  
11 which the person is licensed and is subject to disciplinary action  
12 as provided by the law governing the person's license.

13 (e) This section does not restrict the practice of medicine  
14 by a physician licensed under Subtitle B.

15 SECTION 2. Section 201.604, Occupations Code, is amended  
16 to read as follows:

17 Sec. 201.604. GENERAL CRIMINAL PENALTY. Except as  
18 provided by Sections [~~Section~~] 201.605 and 201.606, a person  
19 commits an offense if the person violates this chapter. An offense  
20 under this section is a misdemeanor punishable by a fine of not less  
21 than \$50 or more than \$500 or by confinement in the county jail for  
22 not more than 30 days.

23 SECTION 3. Subchapter M, Chapter 201, Occupations Code, is  
24 amended by adding Section 201.606 to read as follows:

25 Sec. 201.606. CRIMINAL PENALTY: PERFORMANCE OF SPINAL  
26 MANIPULATION WITHOUT LICENSE. (a) In this section, "license as a  
27 health care provider" means a license, certificate, registration,

1 permit, or other form of authorization issued under this title.

2 (b) A person commits an offense if the person violates  
3 Section 201.3035 and the person does not hold a license as a health  
4 care provider.

5 (c) An offense under this section is a felony of the third  
6 degree.

7 SECTION 4. This Act takes effect immediately if it receives  
8 a vote of two-thirds of all the members elected to each house, as  
9 provided by Section 39, Article III, Texas Constitution. If this  
10 Act does not receive the vote necessary for immediate effect, this  
11 Act takes effect September 1, 2003.

# HOUSE COMMITTEE REPORT

C3 MAY -2 PM 9:43  
HOUSE OF REPRESENTATIVES

1<sup>st</sup> Printing

By: Goolsby

H.B. No. 1266

Substitute the following for H.B. No. 1266:

By: McReynolds

C.S.H.B. No. 1266

A BILL TO BE ENTITLED

AN ACT

relating to the training required for a health care professional to safely perform spinal manipulation; providing a criminal penalty.

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(1) "License as a health care provider" has the meaning assigned by Section 201.606.

(2) "Spinal manipulation or adjustment" means the use by a person of direct thrust or leverage to move a joint of a patient's spine beyond its normal range of motion, but without exceeding the limits of anatomical integrity.

(b) A person may not perform spinal manipulation or adjustment unless the person has the legal authority to differentially diagnose and has received:

(1) at least 300 hours of classroom instruction in spinal manipulation or adjustment; and

(2) at least 600 hours of supervised clinical training at an institution or facility in which spinal manipulation or adjustment is the primary method of patient treatment.

(c) The requirements of Subsection (b) are in addition to the other requirements for a license under this subchapter. A

1 person who violates this section engages in the unlawful practice  
2 of chiropractic and is subject to disciplinary action under  
3 Subchapter K.

4 (d) A person who holds a license as a health care provider,  
5 other than a license under this chapter, may not perform spinal  
6 manipulation or adjustment unless the person meets the requirements  
7 of Subsection (b) and the performance of spinal manipulation or  
8 adjustment is within the scope of practice under the person's  
9 license. A person subject to this subsection who violates this  
10 section engages in the unlawful practice of the profession for  
11 which the person is licensed and is subject to disciplinary action  
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13 (e) This section does not restrict the practice of medicine  
14 by a physician licensed under Subtitle B.

15 SECTION 2. Section 201.604, Occupations Code, is amended to  
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17 Sec. 201.604. GENERAL CRIMINAL PENALTY. Except as provided  
18 by Sections [~~Section~~] 201.605 and 201.606, a person commits an  
19 offense if the person violates this chapter. An offense under this  
20 section is a Class C misdemeanor [~~punishable by a fine of not less~~  
21 ~~than \$50 or more than \$500 or by confinement in the county jail for~~  
22 ~~not more than 30 days~~].

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26 MANIPULATION WITHOUT LICENSE. (a) In this section, "license as a  
27 health care provider" means a license, certificate, registration,

1 permit, or other form of authorization issued under this title.

2 (b) A person commits an offense if the person violates  
3 Section 201.3035 and the person does not hold a license as a health  
4 care provider.

5 (c) An offense under this section is a Class C misdemeanor.

6 SECTION 4. This Act takes effect immediately if it receives  
7 a vote of two-thirds of all the members elected to each house, as  
8 provided by Section 39, Article III, Texas Constitution. If this  
9 Act does not receive the vote necessary for immediate effect, this  
10 Act takes effect September 1, 2003.

# COMMITTEE REPORT

The Honorable Tom Craddick  
Speaker of the House of Representatives

5-1-2003  
(date)

Sir:

We, your COMMITTEE ON PUBLIC HEALTH

to whom was referred HB 1266 have had the same under consideration and beg to report back with the recommendation that it

- ( ) do pass, without amendment.  
 ( ) do pass, with amendment(s).  
 ( ☒ ) do pass and be not printed; a Complete Committee Substitute is recommended in lieu of the original measure.  
 ( ☒ ) yes ( ) no A fiscal note was requested.  
 ( ) yes ( ☒ ) no A criminal justice policy impact statement was requested.  
 ( ) yes ( ☒ ) no An equalized educational funding impact statement was requested.  
 ( ) yes ( ☒ ) no An actuarial analysis was requested.  
 ( ) yes ( ☒ ) no A water development policy impact statement was requested.  
 ( ) yes ( ☒ ) no A tax equity note was requested.  
 ( ) The Committee recommends that this measure be sent to the Committee on Local and Consent Calendars.

For Senate Measures: House Sponsor \_\_\_\_\_

Joint Sponsors: \_\_\_\_\_ / \_\_\_\_\_ / \_\_\_\_\_

Co-Sponsors: \_\_\_\_\_

The measure was reported from Committee by the following vote:

	AYE	NAY	PNV	ABSENT
Capelo, Chair	<input checked="" type="checkbox"/>			
Laubenberg, Vice-chair				<input checked="" type="checkbox"/>
Coleman	<input checked="" type="checkbox"/>			
Dawson	<input checked="" type="checkbox"/>			
McReynolds	<input checked="" type="checkbox"/>			
Naishtat	<input checked="" type="checkbox"/>			
Taylor				<input checked="" type="checkbox"/>
Truitt	<input checked="" type="checkbox"/>			
Zedler	<input checked="" type="checkbox"/>			

Total

7 aye  
0 nay  
0 present, not voting  
2 absent

CHAIR

## **BILL ANALYSIS**

C.S.H.B. 1266  
By: Goolsby  
Public Health  
Committee Report (Substituted)

### **BACKGROUND AND PURPOSE**

Spinal manipulation or adjustment performed by person who does not have adequate training may pose a health risk to an injured patient. This bill requires a health care provider to receive additional hours of classroom training and supervised clinical instruction in spinal manipulation or adjustment in order to perform these techniques on a patient.

### **RULEMAKING AUTHORITY**

It is our opinion that this bill does not expressly delegate any additional rulemaking authority to a state officer, department, agency, or institution.

### **ANALYSIS**

The bill amends the Occupations Code to prohibit a person from performing spinal manipulation or adjustment unless the person has the legal authority to make a differential diagnosis and has also received 300 hours of classroom instruction and 600 hours of supervised clinical training, in addition to meeting the other requirements for a license to practice chiropractic. A person in violation of this provision is subject to disciplinary action by the Texas Board of Chiropractic Examiners. Additionally, the bill prohibits a licensed health care provider, other than a licensed chiropractor, from performing spinal manipulation or adjustment unless the person has received the above instruction and training and the performance of spinal manipulation or adjustment is within the scope of practice under the person's license. A licensed healthcare provider who violates this provision engages in the unlawful practice of the profession for which the person is licensed and is subject to disciplinary action as provided by the law governing the person's license. The bill provides that a person not licensed as a healthcare professional commits a Class C misdemeanor if the person practices spinal manipulation or adjustment without the required instruction and training.

### **EFFECTIVE DATE**

Upon passage, or if the Act does not receive the necessary vote, the Act takes effect on September 1, 2003.

### **COMPARISON OF ORIGINAL TO SUBSTITUTE**

CSHB 1266 reduces the requirement of classroom instruction from 400 to 300 hours and supervised clinical training from 800 to 600 hours. The substitute also amends the penalty to a class C misdemeanor.



## SUMMARY OF COMMITTEE ACTION

HB 1266

April 9, 2003                      8:00AM

Considered in public hearing  
Testimony taken in committee (See attached witness list.)  
Left pending in committee

May 1, 2003                                      upon final adjourn./recess

Considered in formal meeting  
Committee substitute considered in committee  
Reported favorably as substituted

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2

WITNESS LIST

HB 1266  
HOUSE COMMITTEE REPORT  
Public Health Committee

April 9, 2003 - 8:00AM

For: Raef, Dr. Kevin (Texas Chiropractic Association)  
Against: Myers, Leslie (Texas Association of Acupuncture &  
Oriental Medicine)  
Wainner, Robert (Self and Texas Physical Therapy  
Association)  
On: Aikman, Harvey (Texas State Board of Physical Therapy  
Examiners)  
Harwell, Jessica (Texas Board of Chiropractic  
Examiners)

**LEGISLATIVE BUDGET BOARD**  
Austin, Texas

**FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION**

May 1, 2003

**TO:** Honorable Jaime Capelo, Chair, House Committee on Public Health

**FROM:** John Keel, Director, Legislative Budget Board

**IN RE:** **HB1266** by Goolsby (Relating to the training required for a health care professional to safely perform spinal manipulation; providing a criminal penalty. ), **Committee Report 1st House, Substituted**

<b>No fiscal implication to the State is anticipated.</b>
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Based on the analysis of the Texas Board of Chiropractic Examiners, the provisions of the bill would have no fiscal impact to the state.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 508 Board of Chiropractic Examiners

**LBB Staff:** JK, EB, RT, TG

LEGISLATIVE BUDGET BOARD  
Austin, Texas

FISCAL NOTE, 78TH LEGISLATIVE REGULAR SESSION

April 8, 2003

TO: Honorable Jaime Capelo, Chair, House Committee on Public Health

FROM: John Keel, Director, Legislative Budget Board

IN RE: **HB1266** by Goolsby (Relating to the training required for a health care professional to safely perform spinal manipulation; providing a criminal penalty.), **As Introduced**

**No fiscal implication to the State is anticipated.**

Based on the analysis of the Texas Board of Chiropractic Examiners, the provisions of the bill would have no fiscal impact to the state.

**Local Government Impact**

No fiscal implication to units of local government is anticipated.

**Source Agencies:** 508 Board of Chiropractic Examiners

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~~1 of 1~~

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H.B. No. 1266

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AN ACT

By 

relating to the training required for a health care professional to safely perform spinal manipulation; providing a criminal penalty.

FEB 24 2003

Filed with the Chief Clerk

FEB 27 2003

Read first time and referred to Committee on Public Health

MAY 01 2003

Reported \_\_\_ favorably ~~(unfavorably)~~  
(as substituted)

MAY 05 2003

Sent to Committee on (Calendars)  
~~(Committee on Calendars)~~

Read second time (comm. subst.) (amended); passed to third reading (failed) by a (non-record vote)  
(record vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting)

Constitutional rule requiring bills to be read on three several days suspended (failed to suspend)  
by a vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting

Read third time (amended); finally passed (failed to pass) by a (non-record vote)  
(record vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays, \_\_\_\_\_ present, not voting)

Engrossed

Sent to Senate

\_\_\_\_\_  
CHIEF CLERK OF THE HOUSE

OTHER HOUSE ACTION:

\_\_\_\_\_  
Received from the House

\_\_\_\_\_  
Read and referred to Committee on \_\_\_\_\_

\_\_\_\_\_  
Reported favorably \_\_\_\_\_

\_\_\_\_\_  
Reported adversely, with favorable Committee Substitute; Committee Substitute read first time

\_\_\_\_\_  
Ordered not printed

\_\_\_\_\_  
Laid before the Senate

\_\_\_\_\_  
Senate and Constitutional Rules to permit consideration suspended by (unanimous consent)  
(\_\_\_\_\_ yeas, \_\_\_\_\_ nays)

\_\_\_\_\_  
Read second time, \_\_\_\_\_, and passed to third reading by (unanimous consent)  
(a viva voce vote)  
(\_\_\_\_\_ yeas, \_\_\_\_\_ nays)

\_\_\_\_\_  
Senate and Constitutional 3 Day Rules suspended by a vote of \_\_\_\_\_ yeas, \_\_\_\_\_ nays

\_\_\_\_\_  
Read third time, \_\_\_\_\_, and passed by (a viva voce vote)  
(\_\_\_\_\_ yeas, \_\_\_\_\_ nays)

\_\_\_\_\_  
Returned to the House

\_\_\_\_\_  
SECRETARY OF THE SENATE

OTHER SENATE ACTION:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Figure 1**

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_